

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

James Sloman

v.

Civil No. 06-cv-377-JD

Presstek, Inc., et al.

PROCEDURAL ORDER

James Sloman brings this securities fraud class action on behalf of himself and a putative class of similarly situated persons, viz., all persons who purchased Presstek, Inc. common stock during a particular period. Claiming that the defendants issued materially false and misleading revenue assessments in violation of section 10(b) and section 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 of the regulations promulgated thereunder, Sloman seeks recovery of damages and expenses.

The defendants move to dismiss, arguing that Sloman has failed to state a claim upon which relief can be granted, see Fed. R. Civ. P. 12(b)(6), and that he has failed to plead his allegations of fraud with particularity, see Fed. R. Civ. P. 9(b); Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4. Sloman objects to the defendants' motion to dismiss. After the motion was submitted to the court for consideration, however, the United States Supreme Court decided

two cases that appear relevant to the issues in dispute. See Bell Atlantic Corp. v. Twombly, --- U.S. ---, 127 S. Ct. 1955 (May 21, 2007) (considering the standard required to survive a motion to dismiss for failure to state a claim in an antitrust class action); Tellabs, Inc. v. Makor Issues & Rights, Ltd., --- U.S. ---, 2007 WL 1773208 (June 21, 2007) (considering the pleading requirements of the PSLRA).

Because these two decisions may have altered the pleading requirements that existed when the parties drafted their respective memoranda, the court invites the parties to file supplemental memoranda addressing these decisions and whether they impact upon the outcome of the pending motion to dismiss. To that end, the defendants may file a supplemental memorandum in support of their motion to dismiss no later than July 12, 2007. Pursuant to Local Rule 7.1(b), Sloman may file his supplemental memorandum in opposition to the motion to dismiss within ten days of the service of the defendants' memorandum.

SO ORDERED.

  
Joseph A. DiClerico, Jr.  
United States District Judge

June 26, 2007

cc: David Quinn Gacloch, Esquire  
Theodore M. Hess-Mahan, Esquire  
Michael D. Kendall, Esquire  
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